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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,010	06/25/2001	John J. Giobbi	47079-00046USP2	9971

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EXAMINER

CHERUBIN, YVESTE GILBERTE

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/891,010

Applicant(s)

GIOBBI ET AL.

Examiner

Yveste G. Cherubin

Art Unit

3713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 26-35.

Claim(s) objected to: _____.

Claim(s) rejected: 1-7, 10-22 and 25.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Teresa Walberg
Supervisory Patent Examiner
Group 3700

Continuation of 5. does NOT place the application in condition for allowance because: The references to Weiss, Ohno and Walker meet the claimed invention as claimed. On page 3, the Applicant asserted that the Weiss's fundamental teaching is to gather data and store it only on a player memory card to avoid the need for storing the data on a gaming machine network. The Examiner agrees. Further, the Applicant asserts that the combination of Weiss in view of Ohno and in view of Walker was improper because Walker is teaching away from Weiss. The Examiner disagrees. There is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In re McLaughlin, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In re Bozek, 163 USPQ 545 (CCPA) 1969. The Walker reference discloses a gaming system comprising a central server (200) and configured to use various types of tracking means to store player gaming sessions. 1) Walker uses player identification number (PIN) generated by the system or selected by player at time of registration to retrieve player gaming status from a central server, 11:24-32, 2) Walker uses player tracking card associated with an identifier to store and retrieve gaming status from the central server, 4:29-30, 5:50-58, 8:59-60. When the player tracking card is used, Walker obviates the need for registration (which means no personal identification is required from the players) therefore protecting player privacy in regard to gaming session. As shown, although using a central server (200) Walker provides players with a tracking card associated with an identifier and therefore avoid the need to use player personal identification. On page 5, Applicants argue that the Weiss's reference does not use words "or pause" and that Weiss explicitly contemplates that a player can either initiate or discontinue play. The Examiner agrees. However, by "discontinue, quit", Weiss means that the player stops the play of the gaming session. "Pause" is a broad word which means cease - suspend - quit - break - stop an action temporarily. In a broad sense, temporarily could mean seconds, minutes, day(s), week(s) depending on the context. Any of these words cited above could be used to describe "pause". Since the action of pausing as claimed is not being done by pressing a "pause" button, the reference to Weiss or Ohno meet the claimed limitations. Further, on page 3 of the Office action, the Examiner states that although the reference to Weiss implies allowing players to continue play of the game beginning from the point at which the game was paused, Weiss fails to clearly state it. That's why the reference to Ohno was introduced to explicitly show the saving/storing of a paused game at time of termination and start game from the scene the game was terminated, 2:52-57. It is understood that the reference to Ohno does not teach a wagering game. However, Ohno's teaching was used to meet the claimed limitations. On page 6, Applicants asserted that when Weiss says that the memory card is updated, it does not appear to be updated with the status of the paused game, but rather with an increment or decrement within a "rewards" program. With an understanding of the Weiss reference the memory card includes gaming status (progress) as well as wagering credits. Therefore the passage 5:15-22 is related to redemption and not to the gaming progress of the player. Further down, on 5:54-57 Weiss discloses updating player's performance on the memory card (20) at the end of each gaming session. Accordingly, the final rejection stands.